



26 FEB 2004

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In re Application of	:	
BEUDON et al.	:	
Application No.: 09/868,315	:	DECISION ON PETITION
PCT No.: PCT/FR99/03164	:	
Int. Filing Date: 16 December 1999	:	
Priority Date: 18 December 1998	:	
Attorney Docket No.: 065691-0227	:	
For: DEVICE FOR DIFFUSING STERILE AIR	:	
IN A FABRIC SHEATH	:	

This is a decision on applicants' "Petition under 37 CFR 1.181(a) Requesting Withdrawal of Holding of Abandonment" filed 04 February 2004. No petition fee is required.

### **BACKGROUND**

On 16 December 1999, applicants filed international application PCT/FR99/03164 which claimed a priority date of 18 December 1998. A copy of the international application was communicated to the United States Patent and Trademark Office from the International Bureau on 29 June 2000. A Demand was filed for International Preliminary Examination prior to the 19th month from the earliest claimed priority date. As a result, the deadline for payment of the basic national fee was to expire 30 months from the priority date, or at midnight on 18 June 2001.

On 18 June 2001, applicants filed a Transmittal Letter for entry into the national stage accompanied, *inter alia*, by: the requisite basic national fee; a copy of the international application; and a preliminary amendment.

On 30 October 2001, the United States Designated Office (DO/EO/US) mailed a Notification Missing Requirements under 35 U.S.C. 371 (Form PCT/DO/EO/905) indicating that a signed oath/declaration of the inventors in compliance with 37 CFR 1.497(a) and (b) together with a surcharge payment were required. The notification set a two-month time limit in which to respond.

On 03 December 2003, the United States Designated/Elected Office (DO/EO/US) mailed a NOTIFICATION OF ABANDONMENT (Form PCT/DO/EO/909) indicating that the application was abandoned for failure to file a complete response to the Notification of

Missing Requirements mailed 30 October 2001 within the time period set therein.

On 04 February 2004, applicants filed the present petition which was accompanied, among other things: a copy of the declaration(s) and power of attorney(s) filed 29 August 2001; post card receipt dated 29 August 2001; and a copy of a check in the amount of \$130.

#### DISCUSSION

Applicants state in their present petition that a response to the Notice of Missing Requirements was received at the United States Patent and Trademark Office on 29 August 2001. A review of the present application reveals that the declaration and power of attorney in response to the Notice of Missing Requirements filed 29 August 2001 is not located therein. Section 503 of the Manual of Patent Examining Procedure under the heading "RETURN POSTCARD" states, in part:

"A postcard receipt which itemizes and properly identifies the papers which are being filed serves as prima facie evidence of receipt in the PTO of all the items listed thereon on the date stamped thereon by the PTO."

Here, applicants have provided a copy of their date-stamped filing receipt. The receipt identifies the application by applicants, title of invention, and serial/application number. The receipt itemizes declarations executed by the three joint-inventors. The receipt is stamped "OIPE AUG 29 2001" across its face is sufficient to indicate that the declaration and power of attorney was in fact received in the Office on 29 August 2001.

#### CONCLUSION

Applicants' petition under 37 CFR 1.181 is GRANTED.

This application will be given an international filing date of 16 December 1999 and a date of **29 August 2001** under 35 U.S.C. 371. The application is being returned to the United States Designated/Elected Office for further processing in accordance with this decision.



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